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Commissioner for Patents

FROM:

Gregory L. Bradley, Reg. No. 34,299

COMPANY:

MEDRAD, Inc.

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571-273-8300

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DECEMBER 20, 2006

TOTAL NO. OF PAGES INCLUDING COVER:

SENDER'S REFERENCE NUMBER:

RE:

US Patent Application 10/606,157

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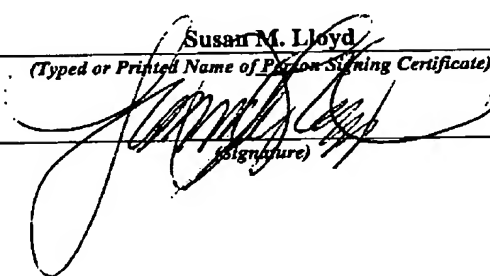
NOTES/COMMENTS:

Request for Reconsideration of and Response to Requirement for Restriction.

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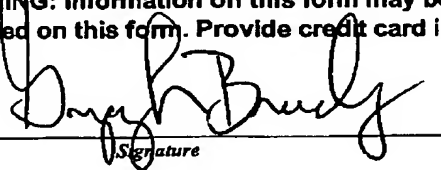
One Medrad Drive
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United States of America

DEC 20 2006

CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8) Applicant(s): David M. Reilly			Docket No. CT/03-002
Application No. 10/606,157	Filing Date 06/25/2003	Examiner GILBERT, Andrew M.	Group Art Unit 3767
Invention: FRONT-LOADING MEDICAL INJECTOR AND SYRINGES, SYRINGE INTERFACES, SYRINGE ADAPTERS AND SYRINGE PLUNGERS FOR USE THEREWITH			
<p>I hereby certify that this <u>Request for Reconsideration of and Response to Requirement for Restriction</u> (Identify type of correspondence)</p> <p>is being facsimile transmitted to the United States Patent and Trademark Office (Fax. No. <u>571-273-8300</u>)</p> <p>on <u>December 20, 2006</u> (Date)</p> <p style="text-align: center;"><u>Susan M. Lloyd</u> (Typed or Printed Name of Person Signing Certificate)</p> <p style="text-align: center;"> (Signature)</p> <p style="text-align: center;">Note: Each paper must have its own certificate of mailing.</p>			

P18/REV02

DEC 20 2006

TRANSMITTAL LETTER (General - Patent Pending)				Docket No. CT/03-002	
In Re Application Of: David M. Reilly					
Application No. 10/606,157	Filing Date 06/25/2003	Examiner GILBERT, Andrew M.	Customer No. 21140	Group Art Unit 3767	Confirmation No. 3562
Title: FRONT-LOADING MEDICAL INJECTOR AND SYRINGES, SYRINGE INTERFACES, SYRINGE ADAPTERS AND SYRINGE PLUNGERS FOR USE THEREWITH					
<u>COMMISSIONER FOR PATENTS:</u>					
Transmitted herewith is: Request for Reconsideration of and Response to Requirement for Restriction					
in the above identified application.					
<input checked="" type="checkbox"/> No additional fee is required. <input type="checkbox"/> A check in the amount of _____ is attached. <input checked="" type="checkbox"/> The Director is hereby authorized to charge and credit Deposit Account No. 13-2530 as described below. <input type="checkbox"/> Charge the amount of _____ <input type="checkbox"/> Credit any overpayment. <input checked="" type="checkbox"/> Charge any additional fee required. <input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.					
WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.					
 _____ <i>Signature</i>			Dated: December 20, 2006		
Gregory L. Bradley, Reg. 24,299 MEDRAD, Inc. One Medrad Drive Indianola, PA 15051			<div style="border: 1px solid black; padding: 5px;"> I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" 37 CFR 1.8(g) on 12/20/2006 _____ (Date) _____ Signature of Person Mailing Correspondence Susan M. Lloyd _____ Typed or Printed Name of Person Mailing Correspondence </div>		
CC:					

P16A/REV03

DEC 20 2006 Atty. Docket No.: VI/03-002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	Customer No.: 21140
David M. Reilly)	
)	Art Unit: 3767
Serial No.: 10/606,157)	
)	Confirmation No.: 3562
Filed: June 25, 2003)	
)	Examiner: GILBERT, Andrew M.
Title: FRONT-LOADING MEDICAL)	
INJECTOR AND SYRINGES,)	
SYRINGE INTERFACES,)	
SYRINGE ADAPTERS AND)	
SYRINGE PLUNGERS FOR USE)	
THEREWITH)	

**REQUEST FOR RECONSIDERATION OF AND RESPONSE
TO REQUIREMENT FOR RESTRICTION**

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the restriction requirement mailed on November 21, 2006, Applicants hereby elect claims 1-17 and 19-21 with traverse. Applicants respectfully request that the restriction requirement issued in the November 21, 2006 Office Action be reconsidered, and that claims 18, 22 and 23 be rejoined in this application. Because Claims 1-23 have already been the subject of a search and examination on the merits by the Examiner and an Amendment and response by Applicants, there is no serious burden on the Examiner in concluding the prosecution of Claims 1-23. Support for this request for reconsideration is set forth below.

1. The prosecution of the above-identified Application has progressed as follows: An Office Action issued on March 14, 2006 in which Examiner Sonal Prasad rejected claims 1-23 as being anticipated by Trocki (US 6,652,489). A prompt Amendment to this Office Action was filed on June 13, 2006 in which Applicants traversed the Examiner's rejections. Also in Applicants' June 13, 2006 Amendment, independent claim 13 was amended.

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In response to Applicants' June 13, 2006 Amendment addressing the rejections in the January 10, 2006 Office Action, a second, new examiner, Examiner Andrew M. Gilbert, issued a Restriction Requirement on November 21, 2006, in which election/restriction was required between two groups of claims.

2. As set for in the Manual of Patent Examining Procedure (MPEP) §803 there are two criteria for a proper requirement for restriction between patentably distinct inventions: (A) The inventions must be independent or distinct as claimed; and (B) There would be a serious burden on the examiner if restriction is not required. Accordingly, even if an application includes inventions that are independent or distinct as claimed, the examiner must show that there is a serious burden if restriction is not required.

3. Applicants contend that the serious burden standard has not been established with respect to the claim groups in the November 21, 2006 Restriction Requirement. In the November 21, 2006 Restriction Requirement, an attempt is made to establish the serious burden standard by stating that the inventions of the different groups require a different field of search. However, the record demonstrates to the contrary. It is abundantly clear from the substance of the March 14, 2006 Office Action that there was no substantial burden in the complete examination on the merits of claims 1-23. Moreover, each of the features in these claims was addressed with specificity in the Office Action.

4. Referring to MPEP §811, this section provides that a restriction requirement "may be made at any time before final action". However, this section also importantly provides that a restriction after a first office action on the merits is proper only if the need for proper restriction requirement develops and, before making a restriction requirement after the first action on the merits, the examiner must consider whether there will be a serious burden if restriction is required. This scenario has not occurred in this Application, as Applicants' June 13, 2006 Amendment actually relieved the Examiner of certain examining burdens rather than developing further burdens. Applicants June 13, 2006 Amendment did nothing more than provide clarifying language to one of the independent claims. A slightly clarified or allowable claim cannot be the basis of developed undue burden on the examination process. Accordingly, Applicants' June 13, 2006 Amendment cannot be the source of a developed undue burden on the

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examination of this Application, particularly in relation to examining features contained in at least the pending independent claims as the March 14, 2006 Office Action demonstrates. Moreover, it also is amply clear from the March 14, 2006 Office Action that there was no initial serious burden in the complete examination of claims 1-23 on the merits.

5. In view of the foregoing, since it has been established that no serious burden initially existed with respect to the initial examination of claims 1-23 in the March 14, 2006 Office Action, and Applicants' June 13, 2006 Amendment actually relieved the examining burden rather than developing an undue burden on the examination process, the finality of the November 21, 2006 Restriction Requirement should be withdrawn and claims 18, 22 and 23 be rejoined in this application.

The Commissioner of Patents and Trademarks is hereby authorized to charge any fees which may be required for consideration of this Petition to Deposit Account No. 13-2530.

Respectfully submitted,

By 

Gregory L. Bradley
Reg. No. 34,299
Attorney for Applicants

Dated: December 20, 2006

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I hereby certify that this correspondence is being faxed to 571-273-8300, to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 20, 2006.


Susan M. Lloyd